

February 21, 1939

The Director, Claims Service

The General Counsel

Creditability of service to The Eastern Oklahoma Railway Company.

Reference is made to your memorandum of January 25, 1939, in which you request a ruling with respect to the status as an "employer" under the Act of the "Eastern Oklahoma Railroad Company." We can find no record of any such company as you name, but do find a record of "The Eastern Oklahoma Railway Company" and this memorandum will deal with that company.

The valuation report of the Interstate Commerce Commission in connection with the property of the Atchison, Topeka & Santa Fe Railway Company (127 I. C. C. 582) gives the following information: The Eastern Oklahoma Railway Company was incorporated July 24, 1899 in the Territory of Oklahoma, and was sold to the Atchison, Topeka & Santa Fe Railway Company on June 20, 1907. On the date of sale the company was controlled by the Atchison, Topeka & Santa Fe Railway Company through ownership of its capital stock. Of the mileage owned on date of sale, (477.41 miles), 10.61 miles was acquired from the Guthrie and Western Railway Company, 24.18 from the Kiowa Chickasha and Fort Smith Railway Company, 161.40 from The Denver, Enid and Gulf Railroad Company, and 281.22 by construction. The construction work was performed by or under supervision of the Atchison, Topeka & Santa Fe Railway Company. The property of the company was "operated under lease by the Santa Fe from January 1, 1900 the date the first section of road was opened for operation, until the date of sale."

The general question as to the status under the Act of "lessor" railroad companies is now under consideration by the office of the General Counsel, and no opinion is here expressed as to the status under the Act of The Eastern Oklahoma Railway Company as a "lessor company." However, in view of the fact that the property of The Eastern Oklahoma Railway Company was operated by the Atchison, Topeka & Santa Fe Railway Company from the date it was first opened

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for operation to the date it was sold to the latter company, the individuals engaged in such operation must have been employed by the Atchison, Topeka & Santa Fe Railway Company, an "employer" under the Act. Therefore, I am of the opinion that the service of such individuals when properly verified is creditable toward annuities under the Act as service to the Atchison, Topeka & Santa Fe Railway Company.

Lester P. Schoene
General Counsel

cc: Mr. Latimer
Mr. Eddy
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